

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

Michael Patrick Austin

DEBTOR(S)

Address: 325 Spears Creek Church Road, 904, Elgin, SC  
29045

Last four digits of Social-Security or Individual Tax-  
Payer-Identification (ITIN) No(s), (if any):9817

CASE NO: 18-05745

CHAPTER 13

**NOTICE OF OPPORTUNITY TO OBJECT**

The debtor(s) in the above captioned case filed a chapter 13 plan on July 12, 2019. The plan is attached.

**Your rights may be affected by the plan. You should read the plan carefully and discuss it with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

Any objection to confirmation of the chapter 13 plan must be in writing filed with the Court at 1100 Laurel Street, Columbia, SC 29201-2423 and served on the chapter 13 trustee, the debtor(s), and any attorney for the debtor(s) no later than 21 days after the service of the chapter 13 plan, as computed under Fed. R. Bankr. P. 9006(a). Objections to confirmation may be overruled if filed late or the objecting party fails to appear and prosecute the objection. If no objection is timely filed, the plan may be confirmed by the Court without further notice.

If you file an objection, you or your attorney must attend the hearing scheduled by the court on confirmation of the plan. Notice of the confirmation hearing is provided in section 9 of the Notice of Chapter 13 Bankruptcy Case. However, the Court may set an earlier status hearing on any objection upon notice to the applicable parties.

**If you or your attorney do not take these steps, the court may determine that you do not oppose the terms or relief sought in the plan and may enter an order confirming the plan.**

Date: July 12, 2019

/s/ Eric S. Reed  
Eric S. Reed  
Reed Law Firm, P.A.  
Attorney for Movant/Movant  
D.C. ID # 7242  
220 Stoneridge Drive, Ste 301  
Columbia, SC 29201  
(803) 726-4888

**Fill in this information to identify your case:**

Debtor 1	<b>Michael Patrick Austin</b>		
	First Name	Middle Name	Last Name
Debtor 2			
(Spouse, if filing)	First Name	Middle Name	Last Name
United States Bankruptcy Court for the:	<b>DISTRICT OF SOUTH CAROLINA</b>		
Case number: (If known)			

- ☐ Check if this is a modified plan, and list below the sections of the plan that have been changed.
- ☐ Pre-confirmation modification
- ☐ Post-confirmation modification

**District of South Carolina  
Chapter 13 Plan**

5/19

**Part 1: Notices**

**To Debtor(s):** This form sets out options that may be appropriate in some cases, but the presence of an option on the form does not indicate that the option is appropriate in your circumstances. Plans that do not comply with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, this Court's local rules, and judicial rulings may not be confirmable.

*In the following notice to creditors, you must check each box that applies*

**To Creditors:** Your rights may be affected by this plan. Your claim may be reduced, modified, or eliminated.

You should read this plan carefully and discuss it with your attorney if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one. Failure to object may constitute an implied acceptance of and consent to the relief requested in this document.

If you oppose the plan's treatment of your claim or any provision of this plan, you or your attorney must file a timely objection to confirmation. **To determine the deadline to object to this plan, you must consult the Notice of Bankruptcy Case or applicable Notice/Motion served with this plan.** The Bankruptcy Court may confirm this plan without further notice if no objection to confirmation is filed. See Bankruptcy Rule 3015. In addition, pursuant to Federal Rule of Bankruptcy Procedure 3002, you must file a timely proof of claim in order to be paid under any plan. Confirmation of this plan does not bar a party in interest from objecting to a claim.

The following matters may be of particular importance. **Debtors must check one box on each line to state whether or not the plan includes each of the following items. If an item is checked as "Not Included" or if both boxes are checked, the provision will be ineffective if set out later in the plan.**

1.1	A limit on the amount of a secured claim, set out in Section 3.2, which may result in a partial payment or no payment at all to the secured creditor	<input checked="" type="checkbox"/> Included	<input type="checkbox"/> Not Included
1.2	Avoidance of a judicial lien or nonpossessory, nonpurchase-money security interest, set out in Section 3.4.	<input type="checkbox"/> Included	<input checked="" type="checkbox"/> Not Included
1.3	Nonstandard provisions, set out in Part 8.	<input checked="" type="checkbox"/> Included	<input type="checkbox"/> Not Included
1.4	Conduit Mortgage Payments: ongoing mortgage payments made by the trustee through plan, set out in Section 3.1(c) and in Part 8	<input type="checkbox"/> Included	<input checked="" type="checkbox"/> Not Included

**Part 2: Plan Payments and Length of Plan**

**2.1** The debtor submits to the supervision and control of the trustee all or such portion of future earnings or other future income as is necessary for the execution of the plan.

Unless all allowed claims (other than long-term claims) are fully paid pursuant to the plan, the debtor will make regular payments to the trustee as follows:

**\$1100.00** per **Month** for **60** months

*Insert additional lines if needed.*

The debtor and trustee may stipulate to a higher payment in order to provide adequate funding of the plan without the necessity of a modification to the plan. The stipulation is effective upon filing with the Court.

Additional monthly payments will be made to the extent necessary to make the payments to creditors specified in this plan.

Debtor Michael Patrick Austin

Case number \_\_\_\_\_

**2.2 Regular payments to the trustee will be made from future income in the following manner:**

*Check all that apply:*

- ☒ The debtor will make payments pursuant to a payroll deduction order.  
☐ The debtor will make payments directly to the trustee.  
☐ Other (specify method of payment): \_\_\_\_\_

**2.3 Income tax refunds.**

*Check one.*

- ☒ The debtor will retain any income tax refunds received during the plan term.  
☐ The debtor will treat income refunds as follows:  
\_\_\_\_\_

**2.4 Additional payments.**

*Check one.*

- ☒ **None.** If "None" is checked, the rest of § 2.4 need not be completed or reproduced.

**Part 3: Treatment of Secured Claims**

To receive a distribution from the trustee, a proof of claim, including adequate supporting documentation and filed in compliance with Official Rules and Forms, must be filed with the Court. For purposes of plan distribution, a claim shall be treated as provided for in a confirmed plan. However, if a claim is treated as secured in a confirmed plan and the affected creditor elects to file an unsecured claim, such claim, unless timely amended, shall be treated as unsecured for purposes of plan distribution. Any creditor holding a claim secured by property that is removed from the protection of the automatic stay by order, surrender, or through operation of the plan will receive no further distribution from the chapter 13 trustee on account of any secured claim. This provision also applies to creditors who may claim an interest in, or lien on, property that is removed from the protection of the automatic stay by another lienholder or released to another lienholder, unless the Court orders otherwise, but does not apply if the sole reason for its application arises under 11 U.S.C. § 362(c)(3) or (c)(4). Any funds that would have otherwise been paid to a creditor, but pursuant to these provisions will not be paid, will be distributed according to the remaining terms of the plan. Any creditor affected by these provisions and who has filed a timely proof of claim may file an itemized proof of claim for any unsecured deficiency within a reasonable time after the removal of the property from the protection of the automatic stay. Secured creditors that will be paid directly by the debtor may continue sending standard payment and escrow notices, payment coupons, or inquiries about insurance, and such action will not be considered a violation of the automatic stay.

**3.1 Maintenance of payments and cure or waiver of default, if any.**

*Check all that apply. Only relevant sections need to be reproduced.*

- ☒ **None.** If "None" is checked, the rest of § 3.1 need not be completed or reproduced.

**3.2 Request for valuation of security and modification of undersecured claims. Check one.**

- ☐ **None.** If "None" is checked, the rest of § 3.2 need not be completed or reproduced.  
***The remainder of this paragraph will be effective only if the applicable box in Part 1 of this plan is checked.***

- ☒ The debtor requests that the Court determine the value of the secured claims listed below. For each non-governmental secured claim listed below, the debtor states that the value of the secured claim should be as set out in the column headed *Estimated amount of secured claim*. For secured claims of governmental units, unless otherwise ordered by the Court after motion or claims objection filed after the governmental unit files its proof of claim or after the time for filing one has expired, the value of a secured claim listed in a proof of claim filed in accordance with the Bankruptcy Rules controls over any contrary amount listed below. For each listed claim, the value of the secured claim will be paid in full with interest at the rate stated below.

The portion of any allowed claim that exceeds the amount of the secured claim will be treated as an unsecured claim under Part 5.1 of this plan. If the estimated amount of a creditor's secured claim is listed below as having no value, the creditor's allowed claim will be treated in its entirety as an unsecured claim under Part 5.1 of this plan. Unless otherwise ordered by the Court, the amount of the creditor's total claim listed on the proof of claim controls over any contrary amounts listed in this paragraph.

Unless 11 U.S.C. § 1325(a)(5)(A) or (C) applies, holders of secured claims shall retain liens to the extent provided by section 1325(a)(5)(B)(i). Unless there is a non-filing co-debtor who continues to owe an obligation secured by the lien, any

Debtor Michael Patrick Austin Case number \_\_\_\_\_

secured creditor paid the allowed secured claim provided for by this plan shall release its liens at the earliest of the time required by applicable state law, order of this Court, or thirty (30) days from the entry of the discharge.

Name of creditor	Estimated amount of creditor's total claim	Collateral	Value of collateral	Amount of claims senior to creditor's claim	Estimated amount of secured claim	Interest rate	Estimated monthly payment to creditor (disbursed by the trustee)
Farmers Furniture	\$999.00	Furniture	\$500.00	\$0.00	\$500.00	6.25%	\$10.00 (or more)

Insert additional claims as needed.

**3.3 Other secured claims excluded from 11 U.S.C. § 506 and not otherwise addressed herein.**

Check one.

☐  
☒

**None.** If "None" is checked, the rest of § 3.3 need not be completed or reproduced.  
The claims listed below are being paid in full without valuation or lien avoidance.

These claims will be paid in full under the plan with interest at the rate stated below. These payments will be disbursed either by the trustee or directly by the debtor, as specified below. Unless there is a non-filing co-debtor who continues to owe an obligation secured by the lien, any secured creditor paid the allowed secured claim provided for by this plan shall satisfy its liens at the earliest of the time required by applicable state law, order of this Court, or upon completion of the payment of its allowed secured claim in this case.

Name of Creditor	Collateral	Estimated amount of claim	Interest rate	Estimated monthly payment to creditor
Ally Financial	2015 Hyundai Genesis	\$31,112.00	6.25%	\$606.00 (or more)

Disbursed by:  
☒ Trustee  
☐ Debtor

Insert additional claims as needed.

**3.4 Lien avoidance.**

Check one.

☒

**None.** If "None" is checked, the rest of § 3.4 need not be completed or reproduced.

**3.5 Surrender of collateral.**

Check one.

☒

**None.** If "None" is checked, the rest of § 3.5 need not be completed or reproduced.

**Part 4: Treatment of Fees and Priority Claims**

**4.1 General**

District of South Carolina

Effective May 1, 2019

Chapter 13 Plan

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The debtor shall pay all post-petition priority obligations, including but not limited to taxes and post-petition domestic support, and pay regular payments on assumed executory contracts or leases, directly to the holder of the claim as the obligations come due, unless otherwise ordered by the Court. Trustee's fees and all allowed priority claims, including domestic support obligations other than those treated in § 4.5, will be paid in full without postpetition interest.

#### 4.2 Trustee's fees

Trustee's fees are governed by statute and may change during the course of the case.

#### 4.3 Attorney's fees.

- a. The debtor and the debtor's attorney have agreed to an attorney's fee for the services identified in the Rule 2016(b) disclosure statement filed in this case. Fees entitled to be paid through the plan and any supplemental fees as approved by the Court shall be disbursed by the trustee as follows: Following confirmation of the plan and unless the Court orders otherwise, the trustee shall disburse a dollar amount consistent with the Judge's guidelines to the attorney from the initial disbursement. Thereafter, the balance of the attorney's compensation as allowed by the Court shall be paid, to the extent then due, with all funds remaining each month after payment of trustee fees, allowed secured claims and pre-petition arrearages on domestic support obligations. In instances where an attorney assumes representation in a pending pro se case and a plan is confirmed, a separate order may be entered by the Court, without further notice, which allows for the payment of a portion of the attorney's fees in advance of payments to creditors.
- b. If, as an alternative to the above treatment, the debtor's attorney has received a retainer and cost advance and agreed to file fee applications for compensation and expenses in this case pursuant to 11 U.S.C. § 330, the retainer and cost advance shall be held in trust until fees and expense reimbursements are approved by the Court. Prior to the filing of this case, the attorney has received \$\_\_\_\_\_ and for plan confirmation purposes only, the fees and expenses of counsel are estimated at \$\_\_\_\_\_ or less.

#### 4.4 Priority claims other than attorney's fees and those treated in § 4.5.

The trustee shall pay all allowed pre-petition 11 U.S.C. § 507 priority claims, other than domestic support obligations treated below, on a *pro rata* basis. If funds are available, the trustee is authorized to pay any allowed priority claim without further amendment of the plan.

*Check box below if there is a Domestic Support Obligation.*

☐ **Domestic Support Claims.** 11 U.S.C. § 507(a)(1):

- a. Pre-petition arrearages. The trustee shall pay the pre-petition domestic support obligation arrearage to (state name of DSO recipient), at the rate of \$\_\_\_\_\_ or more per month until the balance, without interest, is paid in full. *Add additional creditors as needed.*
- b. The debtor shall pay all post-petition domestic support obligations as defined in 11 U.S.C. § 101(14A) on a timely basis directly to the creditor.
- c. Any party entitled to collect child support or alimony under applicable non-bankruptcy law may collect those obligations from property that is not property of the estate or with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute.

#### 4.5 Domestic support obligations assigned or owed to a governmental unit and paid less than full amount.

*Check one.*

☒ **None.** If "None" is checked, the rest of § 4.5 need not be completed or reproduced.

### Part 5: Treatment of Nonpriority Unsecured Claims

#### 5.1 Nonpriority unsecured claims not separately classified. *Check one*

Debtor Michael Patrick Austin Case number \_\_\_\_\_

Allowed nonpriority unsecured claims that are not separately classified will be paid, pro rata by the trustee to the extent that funds are available after payment of all other allowed claims.

- ☒ The debtor estimates payments of less than 100% of claims.  
☐ The debtor proposes payment of 100% of claims.  
☐ The debtor proposes payment of 100% of claims plus interest at the rate of %.

**5.2 Maintenance of payments and cure of any default on nonpriority unsecured claims. Check one.**

☒ **None.** If "None" is checked, the rest of § 5.2 need not be completed or reproduced.

**5.3 Other separately classified nonpriority unsecured claims. Check one.**

☐ **None.** If "None" is checked, the rest of § 5.3 need not be completed or reproduced.

☒ The nonpriority unsecured allowed claims listed below are separately classified and will be treated as follows:

Name of creditor	Total amount to be paid on the claim	Interest rate (if applicable)
<u>IRS (2013 &amp; 2014 Tax Years)</u>	<u>\$6,376.00</u>	<u>6.25%</u>
<u>SC Department of Revenue (2013 &amp; 2014 Tax Years)</u>	<u>\$1,724.00</u>	<u>6.25%</u>

Specify the amount and frequency of payments and whether disbursed by the trustee or the debtor. Trustee to pay \$127.00 per month to the IRS. Trustee to pay \$34.00 per month to the SC Department of Revenue.

Provide a brief statement of the basis for separate classification and treatment. The subject tax returns (2013 & 2014) were not timely filed and, therefore, neither dischargeable nor priority. As such, a separate classification is required in order to treat them in this Plan.

**Part 6: Executory Contracts and Unexpired Leases**

**6.1 The executory contracts and unexpired leases listed below are assumed and will be treated as specified. All other executory contracts and unexpired leases are rejected. Check one.**

- ☐ **None.** If "None" is checked, the rest of § 6.1 need not be completed or reproduced.  
☒ **Assumed items.** Current installment payments will be disbursed directly by the debtor, as specified below, subject to any contrary court order or rule. Prepetition arrearage payments will be disbursed by the trustee unless otherwise ordered.

Name of Creditor	Description of leased property or executory contract	Current installment payment	Estimated amount of arrearage through month of filing or conversion	Estimated monthly payment on arrearage to be disbursed by the trustee
<u>The Preserve at Spears Creek</u>	<u>Rental Property</u>	<u>\$1081.00</u>	<u>\$0.00</u>	<u>\$0.00</u>

(or more)

Insert additional claims as needed.

Debtor Michael Patrick Austin

Case number \_\_\_\_\_

**Part 7: Vesting of Property of the Estate**

**7.1 Property of the estate will vest in the debtor as stated below:**

*Check the applicable box:*

- ☒ Upon confirmation of the plan, property of the estate will remain property of the estate, but possession of property of the estate shall remain with the debtor. The chapter 13 trustee shall have no responsibility regarding the use or maintenance of property of the estate. The debtor is responsible for protecting the estate from any liability resulting from operation of a business by the debtor. Nothing in the plan is intended to waive or affect adversely any rights of the debtor, the trustee, or party with respect to any causes of action owned by the debtor.
- ☐ **Other.** The debtor is proposing a non-standard provision for vesting, which is set forth in section 8.1. This provision will be effective only if the applicable box in Section 1.3 of this plan is checked and a proposal for vesting is provided in Section 8.1.

**Part 8: Nonstandard Plan Provisions**

**8.1 Check "None" or List Nonstandard Plan Provisions**

- ☐ **None.** If "None" is checked, the rest of Part 8 need not be completed or reproduced.

**8.1 (a)**

Confirmation of this plan does not bar a party in interest from any actions discovered from the documentation, or lack thereof, in a proof of claim. The debtor specifically reserves any currently undiscovered or future claims, rights or cause of action the debtor may have, regarding any issues not specifically addressed or determined by the plan, against any creditor or other party in interest including, but not limited to, violations of applicable consumer protections codes and actions under 11 U.S.C. §§542,543,544,547 and 548.

The confirmation of this plan may determine the character (secured, unsecured or priority), amount and timing of distribution of a creditor's claim regardless of the proof of claim filed. If a creditor objects to a claim's treatment under the plan, the creditor must timely object to confirmation.

Debtor understands the following: (1) The obligations set forth in the plan, including the amount, method, and timing of payments made to the Trustee or directly to creditors; (2) The consequences of any default under the Plan; and (3) That debtor(s) may not agree to sell or sell property, employ professionals, incur debt (including modification of debt), or request or agree to mortgage modification or other loss mitigation during the pendency of the case without the advance authorization of the Bankruptcy Court.

**8.1 (b) See language in 5.3.**

**Part 9: Signatures:**

**9.1 Signatures of debtor and debtor attorney**

*The debtor and the attorney for the debtor, if any, must sign below.*

X /s/ Michael Patrick Austin  
**Michael Patrick Austin**  
Signature of Debtor 1

Executed on July 12, 2019

X \_\_\_\_\_  
Signature of Debtor 2

Executed on \_\_\_\_\_

X /s/ Eric S. Reed  
**Eric S. Reed 7242**  
Signature of Attorney for debtor DCID#

Date July 12, 2019

By filing this document, the debtor, if not represented by an attorney, or the debtor and the attorney for the debtor certify(ies) that this Chapter 13 plan contains no nonstandard provision other than those set out in Part 8.

**United States Bankruptcy Court  
District of South Carolina**

In re **Michael Patrick Austin**

Debtor(s)

Case No. **19-03271**

Chapter **13**

**CERTIFICATE OF SERVICE**

I hereby certify that on **July 12, 2019**, a copy of **Notice of Opportunity to Object and Chapter 13 Plan** was served electronically or by regular United States mail to all interested parties, the Trustee and all creditors listed below.

**See attached mailing matrix.**

**/s/ Eric S. Reed**

**Eric S. Reed 7242**

**Reed Law Firm, P.A.**

**220 Stoneridge Drive, Ste 301**

**Columbia, SC 29210**

**803-726-4888 Fax: 803-726-4887**



Label Matrix for local noticing  
0420-3  
Case 19-03271-jw  
District of South Carolina  
Columbia  
Fri Jul 12 12:31:41 EDT 2019

ATTORNEY GENERAL OF THE UNITED STATES  
DEPT OF JUSTICE ROOM 5111  
10TH AND CONSTITUTION AVENUE NW  
Washington DC 20530-0001

Ally Financial  
200 Renaissance Ctr # B0  
Detroit MI 48243-1300

Michael Patrick Austin  
325 Spears Creek Church Road, 904  
Elgin, SC 29045-8108

Capital One  
Attn: Bankruptcy  
Po Box 30285  
Salt Lake City UT 84130-0285

Capital One Bank (USA), N.A.  
by American InfoSource as agent  
PO Box 71083  
Charlotte, NC 28272-1083

Exeter Finance Corp  
Po Box 166008  
Irving TX 75016-6008

Exeter Finance LLC  
P.O. Box 167399  
Irving, TX 75016-7399

Exeter Finance LLC, c/o AIS Portfolio Servic  
4515 N Santa Fe Ave. Dept. APS  
Oklahoma City, OK 73118-7901

(p)FARMERS FURNITURE  
ATTN CORPORATE CREDIT DEPT  
PO BOX 1140  
DUBLIN GA 31040-1140

IRS  
PO Box 7346  
Philadelphia PA 19101-7346

LVNV Funding, LLC  
Resurgent Capital Services  
PO Box 10587  
Greenville, SC 29603-0587

Mabt - Genesis Retail  
Attn: Bankruptcy  
Po Box 4477  
Beaverton OR 97076-4401

RICHLAND COUNTY  
PO BOX 11947  
Columbia SC 29211-1947

Eric S Reed  
Reed Law Firm, PA  
220 Stoneridge Dr., Suite 301  
Columbia, SC 29210-8018

SC DEPARTMENT OF REVENUE  
PO BOX 12265  
Columbia SC 29211-2265

(p)SC DEPARTMENT OF EMPLOYMENT AND WORKFORCE  
PO BOX 8597  
COLUMBIA SC 29202-8597

William K. Stephenson Jr.  
PO Box 8477  
Columbia, SC 29202-8477

The Perserve at Spears Creek  
325 Spears Creek Church Road  
Elgin SC 29045-8299

US Trustee's Office  
Strom Thurmond Federal Building  
1835 Assembly Street  
Suite 953  
Columbia, SC 29201-2448

U.S. Department of Education  
Ecmc/Bankruptcy  
Po Box 16408  
Saint Paul MN 55116-0408

US ATTORNEYS OFFICE  
JOHN DOUGLAS BARNETT ESQ  
1441 MAIN STREET  
STE 500  
Columbia SC 29201-2897

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified  
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

Farmers Furniture  
Attn: Bankruptcy Department  
Po Box 1140  
Dublin GA 31040

SC EMPLOYMENT SECURITY COMMISSION  
PO BOX 995  
Columbia SC 29202

End of Label Matrix  
Mailable recipients 21  
Bypassed recipients 0  
Total 21